

JS 44 (Rev. 12/07, NJ 5/08)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

JEFFREY L. HOBSON

(b) County of Residence of First Listed Plaintiff _____

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002
(215) 540-8888

DEFENDANTS

NCO FINANCIAL SYSTEMS, INC.

County of Residence of First Listed Defendant _____

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C. Section 1692

Brief description of cause:

Fair Debt Collection Practices Act

VII. REQUESTED IN COMPLAINT:
☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE

DOCKET NUMBER

Explanation:

DATE

/s/ Craig Thor Kimmel

SIGNATURE OF ATTORNEY OF RECORD

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 7382 S. State Road 13, Wabash, IN 46992

Address of Defendant: 507 Prudential Road, Hersham, PA

Place of Accident, Incident or Transaction: 7382 S. State Road 13, Wabash, IN 46992
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities?

Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: _____ Judge _____ Date Terminated: _____

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

A. Federal Question Cases:

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FEELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases 15 U.S.C. § 1692
(Please specify)

B. Diversity Jurisdiction Cases:

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases
(Please specify)

ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, Craig Thor Kimmel, counsel of record do hereby certify:

☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

☐ Relief other than monetary damages is sought.

DATE: 3/15/2010

Craig Thor Kimmel
Attorney-at-Law

57100
Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 3/15/2010

Craig Thor Kimmel
Attorney-at-Law

57100
Attorney I.D.#

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

Jeffrey L. Hobson : CIVIL ACTION
v. :
NCO Financial Systems, Inc. : NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. (X)

<u>3/15/2010</u> Date	<u>Craig Ther Kimmel</u> Attorney-at-law	<u>Jeffrey L. Hobson</u> Attorney for
<u>(215) 540-8888</u> Telephone	<u>(215) 540-8817</u> FAX Number	<u>Kimmel@creditlaw.com</u> E-Mail Address

1
2 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(1).

3 5. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and
4 2202.

5
6 **PARTIES**

7 6. Plaintiff is a natural person residing at 7382 S. State Road 13 in
8 Wabash, Indiana, 46992.

9 7. Plaintiff is a person granted a cause of action under the FDCPA. See
10 15 U.S.C. § 1692k(a) and Wenrich v. Cole, 2000 U.S. Dist. LEXIS 18687
11 (E.D. Pa. Dec. 22, 2000).

12 8. Defendant is a national debt collection company with corporate
13 headquarters located at 507 Prudential Road in Horsham, Pennsylvania.

14 9. Defendant is a “debt collector,” as that term is defined by 15 U.S.C. §
15 1692a(6), and repeatedly contacted Plaintiff when seeking to collect a
16 consumer debt of another person.

17 10. Defendant considered Plaintiff to be a “consumer” as that term is
18 defined by 15 U.S.C. § 1692a(3).

19 11. Defendant acted through its agents, employees, officers, members,
20 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,
21 representatives, and insurers.

22
23 **PRELIMINARY STATEMENT**

24 12. The Fair Debt Collection Practices Act (“FDCPA”) is a
25 comprehensive statute which prohibits a catalog of activities in connection with

1 the collection of debts by third parties. See 15 U.S.C. § 1692 *et seq.* The
2 FDCPA imposes civil liability on any person or entity that violates its
3 provisions, and establishes general standards of debt collector conduct, defines
4 abuse, and provides for specific consumer rights. 15 U.S.C. § 1692k. The
5 operative provisions of the FDCPA declare certain rights to be provided to or
6 claimed by debtors, forbid deceitful and misleading practices, prohibit
7 harassing and abusive tactics, and proscribe unfair or unconscionable conduct,
8 both generally and in a specific list of disapproved practices.

9 13. In particular, the FDCPA broadly enumerates several practices
10 considered contrary to its stated purpose, and forbids debt collectors from
11 taking such action. The substantive heart of the FDCPA lies in three broad
12 prohibitions. First, a “debt collector may not engage in any conduct the natural
13 consequence of which is to harass, oppress, or abuse any person in connection
14 with the collection of a debt.” 15 U.S.C. § 1692d. Second, a “debt collector
15 may not use any false, deceptive, or misleading representation or means in
16 connection with the collection of any debt.” 15 U.S.C. § 1692e. And third, a
17 “debt collector may not use unfair or unconscionable means to collect or
18 attempt to collect any debt.” 15 U.S.C. § 1692f. The FDCPA is designed to
19 protect consumers from unscrupulous collectors, whether or not there exists a
20 valid debt, broadly prohibits unfair or unconscionable collection methods,
21 conduct which harasses, oppresses or abuses any debtor, and any false,
22 deceptive or misleading statements in connection with the collection of a debt.

23 14. In enacting the FDCPA, the United States Congress found that
24 “[t]here is abundant evidence of the use of abusive, deceptive, and unfair debt
25 collection practices by many debt collectors,” which “contribute to the number

1 of personal bankruptcies, to marital instability, to the loss of jobs, and to
2 invasions of individual privacy.” 15 U.S.C. § 1692a. Congress additionally
3 found existing laws and procedures for redressing debt collection injuries to be
4 inadequate to protect consumers. 15 U.S.C. § 1692b.

5 15. Congress enacted the FDCPA to regulate the collection of consumer
6 debts by debt collectors. The express purposes of the FDCPA are to “eliminate
7 abusive debt collection practices by debt collectors, to insure that debt
8 collectors who refrain from using abusive debt collection practices are not
9 competitively disadvantaged, and to promote consistent State action to protect
10 consumers against debt collection abuses.” 15 U.S.C. § 1692e.

11 12 **FACTUAL ALLEGATIONS**

13 15. Defendant and others it retained began on or about January 29, 2010,
14 through February 12, 2010, continuously placing harassing and abusive
15 collection calls to Plaintiff seeking and demanding payment for an alleged
16 consumer debt of another person, specifically a Michael Bullard.

17 16. The alleged debt at issue arose out of transactions which were
18 primarily for personal, family, or household purposes.

19 17. Defendant and others it retained placed repeated calls to Plaintiff’s
20 home telephone.

21 18. On January 29, 2010, Defendant contacted Plaintiff and requested his
22 Capital One account number.

23 19. Plaintiff informed Defendant that he did not have a Capital One credit
24 card.

25 20. Defendant identified the debtor as Michael Bullard (“Mr. Bullard”).

1 21. Defendant inquired whether Mr. Bullard lived at Plaintiff's address.

2 22. Plaintiff informed Defendant that Mr. Bullard did not live at his
3 address.

4 23. Further, Plaintiff informed Defendant that he had worked with Mr.
5 Bullard about fifteen (15) years ago and did not have any contact information
6 for him.

7 24. Plaintiff demanded that calls stop immediately and instructed
8 Defendant to remove his phone number from their computer database.

9 25. Defendant informed Plaintiff that it would remove his phone number
10 from its computer database.

11 26. However, Defendant disregarded his instructions and continued
12 calling him in its attempts to collect a debt owed by Mr. Bullard.

13 27. Defendant contacted Plaintiff on February 1, 2010; February 2, 2010;
14 February 3, 2010; and February 4, 2010 (two calls).

15 28. Each time Plaintiff demanded that the calls stop and instructed
16 Defendant to remove his phone number from their computer database.

17 29. Additionally, on or about February 3, 2010, Plaintiff sent Defendant
18 an email instructing it to cease contacting him regarding the debt alleged to be
19 owed by Mr. Bullard.

20 30. On February 9, 2010, Defendant sent correspondence to Plaintiff
21 acknowledging his "recent communication," and seeking to obtain his personal
22 information, including his social security number, as well as information on
23 the account allegedly belonging to Mr. Bullard, before it would act on his
24 request to cease contacting him. See Exhibit A, the February 9, 2010,
25 correspondence from Defendant.

32. The repetitive calls to Plaintiff were disturbing, harassing, an invasion of privacy and made Plaintiff feel wary about answering the telephone for any number he did not recognize.

33. The FDCPA is a strict liability statute. Taylor v. Perrin, Landry, deLaunay & Durand, 103 F.3d 1232 (5th Cir. 1997). “Because the Act imposes strict liability, a consumer need not show intentional conduct by the debt collector to be entitled to damages.” Russell v. Equifax A.R.S., 74 F. 3d 30 (2d Cir. 1996); see also Gearing v. Check Brokerage Corp., 233 F.3d 469 (7th Cir. 2000) (holding unintentional misrepresentation of debt collector’s legal status violated FDCPA); Clomon v. Jackson, 988 F. 2d 1314 (2d Cir. 1993).

- 6 -

36. In its actions to collect a disputed debt, Defendant violated the FDCPA in one or more of the following ways:

- a. Defendant violated of the FDCPA generally.
- b. Defendant violated § 1692b(2) of the FDCPA by informing Plaintiff that Mr. Bullard owed a debt.
- c. Defendant violated § 1692(b)(3) of the FDCPA by calling Plaintiff more than once in connection for the collection of a debt for another individual.
- d. Defendant violated § 1692c(b) of the FDCPA by communicating

1 with Plaintiff about a debt allegedly owed by Mr. Bullard.

2 e. Defendant violated § 1692d of the FDCPA by harassing Plaintiff
3 in connection with the collection of an alleged debt.

4 f. Defendant violated §1692d(5) of the FDCPA by causing a
5 telephone to ring and engaging Plaintiff in telephone conversations
6 repeatedly and continuously with the intent to annoy, abuse, and
7 harass Plaintiff.

8 g. Defendant violated § 1692f of the FDCPA by using unfair and
9 unconscionable means with Plaintiff to collect or attempt to collect
10 a debt.

11 WHEREFORE, Plaintiff, JEFFRY L. HOBSON, respectfully prays for a
12 judgment as follows:

13 a. All actual compensatory damages suffered pursuant to 15
14 U.S.C. § 1692k(a)(1);

15 b. Statutory damages of \$1,000.00 for each violation of the
16 FDCPA pursuant to 15 U.S.C. § 1692k(a)(2)(A);

17 c. All reasonable attorneys' fees, witness fees, court costs and
18 other litigation costs incurred by Plaintiff pursuant to 15 U.S.C.
19 § 1693k(a)(3); and
20

21 d. Any other relief deemed appropriate by this Honorable Court.
22
23
24
25

DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiff, JEFFRY L. HOBSON, demands a jury trial in this case.

RESPECTFULLY SUBMITTED,

DATED: March 15, 2010

KIMMEL & SILVERMAN, P.C..

By: /s/ Craig Thor Kimmel
Craig Thor Kimmel
Attorney ID # 57100
Kimmel & Silverman, P.C.
30 E. Butler Pike
Ambler, PA 19002
Phone: (215) 540-8888
Fax: (215) 540-8817
Email: kimmel@creditlaw.com

NCOSM

NCO Financial Systems, Inc.

507 Prudential Road
Horsham, PA 19044
1-866-305-9426

Office Hours: 8:00 a.m. - 9:00 p.m. Monday through Thursday,
8:00 a.m. - 5:00 p.m. Friday, 8:00 a.m. - 12:00 noon Saturday

February 9, 2010

Jeff Hobson
7382 S State Road 13
Wabash, IN 46992

Dear Jeff Hobson:

Thank you for your recent communication. I can assure you that we are committed to assisting you; however, we have been unable to locate the matter you have referenced from the information we have been provided. Please provide us with further identifying information such as your social security number, the name of the original creditor, the creditor's account number and/or reference number and the billing address of the account. A copy of any correspondence you may have received from us would also be of assistance. Kindly contact me at the above address with this information.

Thank you for your anticipated cooperation regarding this request.

Very truly yours,

Kenia Long
Compliance Resolution Administrator

This is an attempt to collect a debt. Any information obtained will be used for that purpose. This is a communication from a debt collector.

Calls to or from NCO Financial Systems, Inc. may be monitored or recorded for quality assurance.

